

Amendment No. 2 to HB8003

Terry
Signature of Sponsor

AMEND <SB>

House Bill No. 8003*

by deleting Section 3 and substituting instead the following:

SECTION 3. Tennessee Code Annotated is amended by adding the following as a new title:

14-1-107.

(a) As used in this section:

(1) "Health officer" means a county health officer, as described in title 68, chapter 2, part 6; a district health director, as described in § 68-2-704; and any other state, district, municipal, or county health officer;

(2) "Mask" means a material used to cover the nose and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing, or other intentional or involuntary action; and

(3) "Public school property" means all property used for public school purposes.

(b) Notwithstanding title 49, chapter 2, part 2; title 49, chapter 13; any authority of a health officer pursuant to title 68 or § 4-3-1803; any authority of a mayor pursuant to a private act or local resolution or ordinance; or any executive order issued by the governor pursuant to § 58-2-107, a local board of education or a public charter school shall not mandate or require students to wear a mask.

(c)

(1) A public school shall, to the extent practicable, provide a reasonable accommodation to a student, teacher, or employee of the public school who:

(A) Desires to be placed in an educational setting in which all persons who may place or otherwise locate themselves within six feet (6') of another within that educational setting are wearing a mask; and

(B) Provides a written request for a reasonable accommodation to the school principal. If the student requesting a reasonable accommodation under this subsection (c) is under eighteen (18) years of age, then the student's parent or legal guardian must provide the written request to the school principal on the student's behalf.

(2) The school principal shall evaluate the request on behalf of the public school and, to the extent practicable, provide a reasonable accommodation. The principal shall issue a decision approving or denying the request in writing. If the principal denies the request, then the grounds for denial must be provided in the principal's written decision. If the school principal approves the request, then the school shall place the student, teacher, or employee in an in-person educational setting in which all persons who may place or otherwise locate themselves within six (6) feet of another within that educational setting are wearing a mask provided by the public school that meets the U.S. National Institute for Occupational Safety and Health N95 classification of air filtration, meaning that the face covering filters at least ninety-five percent (95%) of airborne particles, including droplets containing the SARS-CoV-2 virus, or a variant of the SARS-CoV-2 virus.

(3) This section does not prohibit public schools from adopting policies necessary to accommodate persons protected under the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.).

(d)

(1) A local board of education or public school, including a public charter school, shall not use state funds to mandate or require students to wear a mask in violation of subsection (b). If a local board of education or public school

violates this subdivision (d)(1), then the commissioner of education may withhold future distributions of public school funds from the LEA or public school in the amount of the state funds used by the local board of public school in violation of this subdivision (d)(1), or the attorney general and reporter may initiate legal proceedings to recover all state funds used in violation of this subdivision (d)(1).

(2) A local board of education or public school that violates subdivision (d)(1) is not eligible to receive an appropriation, grant, or other funds from this state until the local board of education or public school is in compliance.

(3) This subsection (d) does not prohibit an local board of education or public school, including a public charter school, from using state funds to purchase a mask that meets the U.S. National Institute for Occupational Safety and Health N95 classification of air filtration, meaning that the face covering filters at least ninety-five percent (95%) of airborne particles, including droplets containing the SARS-CoV-2 virus, or a variant of the SARS-CoV-2 virus, for students, teachers, or employees who receive a reasonable accommodation from the school principle of the respective public school under subsection (c).

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.